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| 10/629,142 | 07/30/2003 | Leonard E. Heyman | | 6140 |

7590
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07/06/2006

EXAMINER

PRONE, JASON D

| ART UNIT | PAPER NUMBER |
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3724

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,142

Applicant(s)

HEYMAN, LEONARD E.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) 5,8,9,11-13 and 16 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,4,6,7,10,14,15 and 17-20 is/are rejected.
7) ☒ Claim(s) 3 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 5, 8, 9, 11-13, and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 19 April 2006.

In response to applicant's comments, if the independent claims from which the withdrawn claims depend from are found to be allowable, the withdrawn claims will be rejoined and allowed with the rest of the claims.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In Figures 3-5, item "164". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "174" has been used to designate both the main gear in Figure 4 and the shaft in Figure 5. It is believed that the "174" that points to the gear should be replaced with 172 as disclosed on page 6 line 13 of applicant's specification. Reference character "179" has been used to designate both the arrow on page 6 line 5 and the conical gear on page 6 line 15. It is believed that the "179" that points to the arrow should be replaced with 194 as disclosed on page 6 line 8 of applicant's specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "pressure sensing means", of claim 6, and the "interior protuberances", of claim 19, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: On page 2 line 15, the phrase "Fig. 3 shows the exemplary starter electric starter of FIGS. 2 and 3 in plan view" should be replaced with "Fig. 3 shows the exemplary starter electric starter of FIG. 4 in plan view". On page 7 line 3 the phrase "activates 175 when a" should be replaced with "activates motor 175 when a". The legal phraseology "said" should not appear in the specification. For example, on page 7 lines 4 and 8, the phrases "said downward" and "said pressure" should be changed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regards to claim 6, the phrase "pressure-sensing means automatically activating said electric motor" is not clear. Page 7 line 3 of the specification states "switch 155" activates the motor not the pressure sensing means. It is unclear how a means for sensing pressure can perform an additional function such as activating a motor. In regards to claim 7 the phrase "pressure-sensing means comprises a momentary switch" is not supported by the specification. It is unclear what structure links the switch and the pressure sensing means.

8. Applicant should note that the limitations "pressure-sensing means" and "torque transmitting means" are not in compliance with the Supplemental Guidelines published in the Official Gazette on July 25, 2000. Such limitations cannot be used to invoke 35 USC 112, 6th paragraph, and have therefore been given their broadest reasonable interpretation, without considering equivalence. For example, it is suggested that all occurrences of the term "pressure-sensing means" be replaced with "means for sensing pressure".

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 2, 4, 10, 14, 15, and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Jacobson (2003/0196500) with evidence patent Trotter et al. (2,932,292).

Claims 1, 2, 4, 10, 14, and 18-20:

In regards to claim 1, Jacobson discloses the same invention including an electric starter for a trimmer having a cutting head and an internal combustion engine (Title), the cutting head comprising a spool and flexible cord (Abstract), the starter comprising an electric motor (Abstract, inside the drill), a cutting head engaging structure in mechanical communication with the motor (1), and the cutting head engaging structure being adapted to engage the spool portion (Abstract).

In regards to claim 2, Jacobson discloses the starter comprises a housing (housing of the drill), the cutting head engaging structure is locked to a shaft extending from the housing (3), and the shaft being in mechanical communication with the motor (Abstract).

In regards to claim 4, Jacobson discloses the electric motor is part of an electric including a power switch for selectively opening and closing the electric circuit (the trigger of the drill).

In regards to claim 10, Jacobson discloses a torque transmitting means placing the electric motor in mechanical communication with the cutting head engaging structure (3).

In regards to claim 14, Jacobson discloses the torque transmitting means includes an output shaft extending from the electric motor (3) and the cutting head engaging structure being fixed directly to the output shaft (3).

In regards to claims 18-20, Jacobson discloses the cutting head engaging structure is a plastic cup shaped receptacle having an inner circumferential surface that tapers inwardly such that an inside diameter decreases with depth (1 and Abstract), the cutting head engaging structure includes interior protuberances (1), and the inner circumferential surface includes a rubber enhancing material (Abstract).

It is noted that the Jacobson reference discloses a drill as part of the invention; however, it fails to disclose specifics of the drill. One can then look to the Trotter et al. reference to provide evidence of drill structure.

Claims 15 and 17:

In regards to claim 15, Jacobson discloses the same invention including a method for starting an engine of a trimmer having a cutting head and an internal combustion engine (last 2 lines of claim 1), the cutting head comprises a spool and a flexible cord (Abstract), inserting the spool into a receptacle of a cutting head engaging structure, and activating the electric starter to rotate the cutting head (Abstract).

In regards to claim 17, Jacobson discloses applying a downward force to the cutting head engagement structure with the trimmer (Abstract).

11. It is to be noted that claims 6 and 7 have not been rejected over prior art. It may or may not be readable over the prior art but cannot be determined at this time in view of the issues under 35 USC § 112.

Response to Arguments

12. Applicant's arguments with respect to claims 1, 2, 4, 6, 7, 10, 14, 15, and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

13. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buxton, Sullivan, Scheckel, Bondnar, and Puchas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is (571) 272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 28, 2006

A handwritten signature in black ink, appearing to read "Jason Prone". The signature is fluid and cursive, with the first name "Jason" and the last name "Prone" clearly distinguishable.

Patent Examiner
Jason Prone
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T.C. 3700